IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

OP.No. 9085 of 1997(F)

PETITIONER:

P.V.GOVINDAN, S/O. LATE K.KOVAN
EZHILODE P.O., KANNUR DISTRICT,
PIN - 670 309.

BY ADV. SRI.P.R.RAMACHANDRA MENON

RESPONDENTS:

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1. THE SECRETARY,
KANNUR SARVODAYA SANGHAM
(A DECENTRALISED UNIT OF KERALA
SARVODAYA SANGHAM,
THALASSERY - 670 101.

2. THE LABOUR COURT, KANNUR.

BY ADV. SRI.T.A.RAMADASAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1 True copy of the Memo dated 24.6.1982 issued by the first respondent.

Ext.P2 True copy of the Lawyer's notice dated 1.8.92 issued to the first respondent.

Ext.P3 True copy of the reply dated 12.8.1992 issued by the first respondent.

Ext.P4 True copy of the claim statement dated 19.9.1994 submitted by the petitioner before the Labour Court, Kannur.

Ext.P5 True copy of the written statement dated 21.10.1994 filed by the first respondent management.

Ext.P6 True copy of the Award dated 31.1.1996 passed by the Labour Court, Kannur.

RESPONDENT'S EXHIBITS:

NIL

//true copy//

P.S. to Judge.

WPC.

S. SIRI JAGAN, J.

O.P. No. 9085 of 1997

Dated this the 24th May, 2007.

J U D G M E N T

The workman in I.D.No.20/1994 before the Labour Court, Kannur, is the petitioner herein. He is challenging Ext.P6 award by the Labour Court in that Industrial dispute.

2. The issue referred for adjudication was 'denial of employment to Sri.P.V.Govindan, Manager, Foot Wear Department, Ezhilode'. The Labour Court upheld the contention of the management that the management did not deny employment to the petitioner and that he himself abstained from work. The Labour Court also accepted the contention of the management that the workman was employed with M/s.Peerless General Finance and Investment Company. This was also taken as a circumstance in support of the contention of the management that they never denied employment to the workman. Accordingly, the Labour Court found that the workman is not entitled to any relief in the Industrial dispute. The said findings in Ext.P6 are under challenge in this Original Petition.

2. It is the common case of both sides that certain amounts were found missing from the accounts of the management, which the workman was liable to account for. He admitted liability to pay the same. The amount found short came to Rs.25,075.39. The management issued Ext.P1 memo, dated 24.6.1982, stating that the workman would be treated as on leave without pay, till he makes good the full amount found short in the account of the management. Counsel for the petitioner would want me to interpret Ext.P1 in such a way that without a further order directing the workman to report for duty, he could not have joined duty, and, therefore, since the management has not issued any communication directing him to report for duty, the management have denied the petitioner-workman, employment. The petitioner-workman would also seriously dispute the finding of the Labour Court that he was employed with M/s.Peerless General Finance and Investment Company. Further, he would submit that, that was not an employment, but only an agency arrangement on commission basis.

3. I have heard the learned counsel appearing for the petitioner, as also the learned counsel appearing for the management-first respondent. At the outset, I must note that even according to the

petitioner, he was denied employment only with effect from 1987, and he had admittedly raised a dispute only in the year 1992, more than five years after the alleged denial of employment. This itself would go a long way in proving the case of the management that they never denied employment to the petitioner, workman. The workman who was denied employment would not wait for five long years to raise an industrial dispute. Although the workman tried to explain away this undue delay, by stating that he has approached the management several times, nothing was brought on record before the Labour Court to show that he had in fact approached the management. What ever that be, if he was in fact denied employment, it cannot be believed that he would have waited for five long years to raise an industrial dispute assuming that he had in fact approached the management.

4. Secondly, there is evidence in plenty before the Labour Court to prove that the workman was in fact employed as a Senior Inspector in M/s.Peerless General Finance and Investment Company. The management had taken pains to summon an officer from the company, and to examine him as a witness, to prove that the workman had in fact worked as a Senior Inspector in the said company. That in fact clinches the issue in favour of the

management. In any event, on going through Ext.P6 award, I find that the Labour Court has given very cogent reasons, based on the evidence before it, to come to the conclusion that the management never denied employment to the workman. Since I cannot find any perversity, what so ever, in the reasoning of the Labour Court, I am unable to countenance the contentions of the petitioner before me against Ext.P6 award. In the above circumstances, I do not find any merit in the Original Petition. Accordingly, the same is dismissed.

S. SIRI JAGAN,
JUDGE

nj.

S.SIRI JAGAN, J.

O.P.No. 9085 of 1997

J U D G M E N T

Dated: 24th May, 2007.